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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,683	07/02/2004	Markus Gerardus Van Doorn	NL 020003	6582
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EXAMINER				
ANDRAMUNO, FRANKLIN S				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/500,683

Applicant(s)VAN DOORN, MARKUS
GERARDUS**Examiner**

FRANKLIN S. ANDRAMUNO

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/04/10.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant has requested reopening prosecution.

Response to Arguments

Applicant argues on page 11 third paragraph of the brief that, "Ficco fails to teach generating second documents on the basis of at least a part of the retrieved identification of the user and at least a part of first documents and sending at least one of the second documents to each device of a second set of the application devices by the server." While applicant's point is understood, examiner disagrees. Ficco discloses in (column 18 lines 15-28) a user subscribing to a service provider by an NSP. This shows a system must be able to identify a user to be able to retrieve information. In addition, (column 18 lines 32-39) the user would query the NSP to display a suitable web page or screen in which the user may input preferences and/or select desired scripts. This may be affected by the well-known shopping cart model, where the user selects scripts to be temporarily buffered until ready to "check-out." This also shows how a user is identified as in the shopping cart model. It should also be noted that appellant's disclosed documents are HTML or web pages (page 1 of spec). Clearly web pages and scripts meet the limitation of documents.

Applicant also argues on page 12 third paragraph, "Ficco fails to teach generating second documents on the basis of at least a part of a retrieved identification of the user." Examiner again respectfully disagrees. While applicant's point is understood, it must be considered that the same paragraph cited (column 16 lines 62-

67) continues to (column 17 lines 1-2). This last section mentions a customer is able to select and pay for a particular "pay-per-script" event. This shows that a selective script is retrieved from a user's choice. Therefore, appellant's argument is not persuasive since scripts are collections of text which are connected. There is nothing in the term document that precludes the script from being a document.

Furthermore, applicant argues on page 13 second paragraph, "second documents are not generated using the retrieved identification of the user or a first document. A user simply selects any other event/document from the service provider. In fact the identification of the user is irrelevant for the selection of documents, but is needed only to gain access to service provider's system." Examiner disagrees. As mentioned in the first paragraph, Ficco discloses in (column 18 lines 15-28) a user subscribing to a service provider by an NSP. This shows a system must be able to identify a user to be able to retrieve information. This may be affected by the well-known shopping cart model, where the user selects scripts to be temporarily buffered until ready to "check-out." This also shows how a user is identified as in the shopping cart model. It should also be noted that appellant's disclosed documents are HTML or web pages (page 1 of spec). Clearly web pages and scripts meet the limitation of documents.

Claim Rejections - 35 USC § 112

Claims 5-6 are rejected under 35 USC § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites the

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following means (or step) plus function limitation: Means for retrieving user profile information based on the user identification.

This limitation invokes 35 USC § 112, ¶ 6 because it meets the 3-prong analysis set forth in MPEP 2181 as it recites the phrase "means for" or "step for" (or appellant identifies the limitation as a means (or step) plus function limitation in the appeal brief) and the phrase is modified by functional language and it is not modified by sufficient structure, material, or acts for performing the recited function. Also see *Altiris Inc. v. Semantec Corp.*, 318 F.3d 1363, 1375 (Fed. Cir. 2003). 35 USC § 112, ¶ 6, requires such claim to be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof. "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section § 112." *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994)(in banc.). For a computer-implemented means-plus-function claim limitation that invokes 35 USC § 112, ¶ 6, the corresponding structure is required to be more than simply a general purpose computer. *Aristocrat Technologies, Inc. v. International Game Technology*, 521 F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). The corresponding structure for a computer-implemented function must include the algorithm as well as the general purpose computer. *WMS Gaming, Inc. v. International Game Technology*, 184 F.3d 1339, 51 USPQ2d 1385 (Fed. Cir. 1999). The written description must at least disclose the algorithm that transforms the general purpose microprocessor to a special purpose computer programmed to perform the claimed function. *Aristocrat*, 521 F.3d at 1338, 86 USPQ2d at 1242.

In the instant application, the following portions of the specification and drawings may appear to describe the corresponding structure for performing the claimed function: The specification on page 5 paragraph (0050) teaches how the server may retrieve identification of a user.

However, the specification and drawings do not disclose sufficient corresponding structure, material or acts for performing the claimed function. The Specification and claims 5 and 6 indicate that the server retrieves information in the form hand-carried application device such as web tablet. However, the Specification does not set forth any structures (e.g., circuits or components) or processors with software instructions or algorithms, which are to be added to application devices so as to allow them to interact with the server to enable document retrieval by the server from the application devices. As such, Appellant has failed to adequately describe sufficient structure for performing the function claimed.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being unpatentable by Ficco et al (US Patent 6,868,292 B2). Hereinafter referred as Ficco.

Regarding claims 1, 5, 7, 12 and 20, Ficco discloses a method, system and computer program of controlling application devices comprising **(Figure 1)**: a server including code **(column 15 lines 8-12)** for retrieving first documents **(HTML File (801) in figure 9)** from a first set of application devices by a server **(Host Processor (815) in figure 9)**; retrieving identification of a user by the server **(column 16 lines 4-6)**; characterized in that the method further comprises the steps of: autonomously generating second documents by the server, each comprising at least one instruction, on the basis of at least a part of the retrieved identification of the user and at least a part of the first documents **(column 16 lines 1-4)**; sending at least one of the second documents to each device of a second set of the application devices by the server **(column 16 lines 14-26)**; and performing, for a given device of the second set, one instruction from at least one of the second documents received in the given device **(HP 310 issues commands (S15) in figure 13)**.

Regarding claims 2, 6, 8, and 13, Ficco discloses a method, system and a computer program **(Column 20 lines 8-11)** according to claim 1, characterized in that the step of retrieving identification of the user further comprises the steps of retrieving user profile information based on the user identification by the server **(Column 16 lines 4-6)**; and retrieving context profile information relating to surroundings of the user by the server **(Column 16 lines 6-13)**.

Regarding claims 3, 9, 14, and 17, Ficco discloses a method according to claim 1, characterized in that the documents comprise at least one of Hyper Text Markup Language (**Column 8 lines 5-6**), Scalable Vector Graphics, Resource Description Framework and Extensible Markup Language (**column 8 lines 14-16**).

Regarding claims 4, 10-11, 15-16, and 18-19, Ficco discloses a method according to claim 1, characterized in that the application devices comprise at least one of Web tablet, set-top box, VCR, TV, PDA, lamp, coffee machine, radio, telephone, background wall, DVD player and electronic information panel (**Figure 1**).

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKLIN S. ANDRAMUNO whose telephone number is (571)270-3004. The examiner can normally be reached on Mon-Thurs (7:30am - 5:00pm) alternate Fri off (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571)272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/
Supervisory Patent Examiner, Art
Unit 2424